

Response
Serial No. 10/049,616
Attorney Docket No. 020179

REMARKS

Claims 1, 5, 9 and 10 are pending in the present application. By this Amendment, each of claims 1 and 9 have been amended, and claims 5 and 10 have been cancelled. No new matter has been added. It is respectfully submitted that this Amendment is fully responsive to the Office Action dated October 28, 2005.

35 U.S.C. §112, Second Paragraph Rejection:

Claims 1 and 9 stand rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

This rejection is respectfully traversed.

The Examiner asserts in item 3 of the Action that “[t]he claim language fails to limit or indicate what is being referred to in ‘a second format.’”¹ However, it is respectfully submitted that the Examiner’s position is overcritical since one of ordinary skill in the art would readily understand that that the second decoding program is in a second format.

¹ Please see, lines 12-13, page 2 of the Action.

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In addition, the Examiner asserts that the determining feature of claims 1 and 9 is confusing. However, each of claims 1 and 9 has been amended to clarify the claim language in accordance with the description provided in lines 16-19 of page 10 of the present specification.

Accordingly, withdrawal of this rejection is respectfully requested.

As to the Merits:

As to the merits of this case, the Examiner sets forth the following rejection:

claims 1, 5, 9-10 stand rejected under 35 USC 102(e) as being anticipated by Heo (U.S. Patent No. 6,449,227).

This rejection is respectfully traversed.

Independent Claim 1:

Independent claim 1 calls for *a recording means for recording into a recording medium a data file in which a sound signal encoded in a first format and a first decoding program according to said first format are stored.*

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In contrast, the DVD-Audio player of Heo fails to include any type of recording means for recording a data file. Instead, as shown in Fig. 27 of Heo, the DVD-Audio player only includes a pickup device 112 for reading the information already stored on a DVD.

Therefore, it is submitted that Heo fails to anticipate the features of claim 1, since Heo fails to disclose or fairly suggest the features of claim 1 concerning *a recording means for recording into a recording medium a data file in which a sound signal encoded in a first format and a first decoding program according to said first format are stored.*

Independent Claim 9:

Independent claim 9, as amended, now calls for *said recording medium records said first decoding program corresponding to said first number-of-bit operation and said second decoding program corresponding to a second number-of-bit operation, said validator loads said first decoding program corresponding to said first number-of-bit operation from said recording medium when said determination result represents disagreement, wherein said second decoding program is not recorded on said recording medium.*

With regard to claim 9, the Examiner asserts on page 5, lines 2-6 that:

Heo further indicates that decoding based upon the number bit for the particularly coded audio data of PCM or compression coded audio data (col. 24, lines 12-50, and col. 30, lines 37-51), thus indicates a the recording means recording the decoding programs according the a 1st number-of-bit operation a 2nd number-of-bit operation.

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However, it is respectfully submitted that in Heo all the decoding programs are stored in the DVD and not in the DVD-Audio player. This is contrast to the present invention wherein, for example, as discussed in the last paragraph on page 10 of the present specification, there is previously at least one decoding software program stored in the ROM 22a provided in the DSP 22.

As such, it is respectfully submitted that Heo fails to disclose or fairly suggest the features of claim 9, as amended, concerning *said second decoding program is not recorded on said recording medium*.

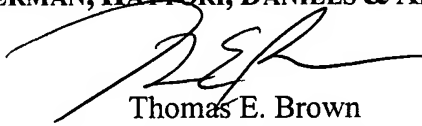
In view of the aforementioned amendments and accompanying remarks, Applicants submit that that the claims, as herein amended, are in condition for allowance. Applicants request such action at an early date.

If the Examiner believes that this application is not now in condition for allowance, the Examiner is requested to contact Applicants' undersigned attorney to arrange for an interview to expedite the disposition of this case.

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If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,
WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP

A handwritten signature in black ink, appearing to read 'TEB', is written over the printed name of Thomas E. Brown.

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